

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ Petition No. 4181/2026

Ramkumar S/o Jagmaal, Aged About 35 Years, R/o Kanasar
Tehsil Nohar, District Hanumangarh Through Power Of Attorney
Holder Rampratap S/o Jagmaal, Aged About 36 Years, R/o
Kanasar, Tehsil Nohar, District Hanumangarh Raj.

----Petitioner

Versus

1. State Of Rajasthan, Through District Collector,
Hanumangarh Raj.
2. Assistant Engineer, Public Work Department (PwD), Nohar
Raj.
3. Sub-Divisional Officer, Nohar Raj.
4. Tehsildar (Revenue), Nohar Raj.

----Respondents

For Petitioner(s)	:	Mr. Himanshu Kaushik
For Respondent(s)	:	

HON'BLE MR. JUSTICE MUKESH RAJPUROHIT

Order

24/02/2026

1. The present writ petition has been filed by the petitioner challenging the order dated 08.10.2025 passed by the Additional District Judge No. 1, Nohar in Civil Misc. Appeal No. 33/2025, whereby appeal preferred by the petitioner has been dismissed and the order dated 24.09.2025 passed by the Civil Judge, Nohar, Hanumangarh in Civil Misc. Case No.181/2025 vide which prayer for grant of interim temporary injunction was rejected, has been affirmed.

2. Learned counsel for the petitioner submits that the petitioner filed a suit for permanent injunction against the respondents,

seeking to restrain them from constructing a road and interfering with the petitioner's agricultural land. Along with the suit, the petitioner also filed an application under Order XXXIX Rules 1 and 2 of CPC for grant of temporary injunction. During the pendency of the said application, the prayer for interim injunction was declined. Aggrieved by the said rejection, the petitioner preferred an appeal challenging the order dated 24.09.2025. However, the learned appellate court erred in dismissing the appeal on the ground that appeal against an interim order is not maintainable and that no documentary evidence was placed to substantiate the alleged construction of road.

3. In support of his contentions, learned counsel for the petitioner has placed reliance upon a judgment rendered by the Gauhati High Court in **Akmal Ali & Ors. v. State of Assam & Ors.** decided on 05.10.1983 and reported in **AIR 1984 GAUHATI**

86. The relevant paragraph is being reproduced hereinbelow : -

"We hold that against an order of ad interim injunction under Section 151 of the Code is not appealable, as Order 43, Rule 1 (r) is not attracted. Order 43, Rule 1 (r) does not provide for an appeal against any order of injunction made under Section 151 of 'the Code'. We hold that an order made under Order 39, Rules 1, 2 and 4 refusing to grant an ex parte order of ad interim injunction is appealable because Order 43, Rule 1 (r) enables a party to prefer an appeal against "an order", positive or negative, passed under Rules 1, 2, 2-A and 4 of Order 39. An order refusing an ad interim injunction is a negative order, but falls within the expressions "an order". The question is no longer res integra in view of the decisions of the Supreme Court in firm Ishar Das Devi Chand v. Prakash Chand, AIR 1969 SC 938 : (1969) 1 SCC 664 and Shah Babulal Khimji v. Jayaben, AIR 1981 SC 1786 : (1981) 4 SCC 8. We hold that refusal to grant an ex parte order of ad interim injunction is appealable under Order 43, Rule 1 (r) of 'the Code'. Further, we hold that no appeal lies against an ex parte order of ad interim injunction if it is rendered under any provision of 'the Code', other than under Rules 1, 2, 2-A, 4 and 10 of Order 39. The view finds support in Keshardeo v. Radha Kishan, AIR 1953 SC 23 : 1953 SCR 136; Chaube Jagdish Prasad v. Ganga Prasad, AIR 1950 SC 492 (para 17). We also hold that an

appeal lies against an ex parte order of ad interim injunction passed under Order 39, Rules 1, 2, 2-A and 4, no matter whether it is a short-term or long-term, speaking or non-speaking, ex parte or inter parte.”

4. Be that as it may, the present writ petition arises out of the refusal to grant interim injunction, while the main application seeking temporary injunction remains pending before the trial court. Accordingly, without expressing any opinion on the merits of the matter and in the interest of justice, this Court considers it appropriate to direct the learned trial court to decide the pending application under Order XXXIX Rules 1 and 2 CPC expeditiously, preferably within a period of 30 days from the date of receipt of a copy of this order.

5. For a period of 30 days, the status quo as it exists today with regard to disputed land/property in question shall be maintained.

6. It is made clear that the learned trial Court should decide the application under Order 39 Rule 1 and 2 strictly in accordance with law, without being influenced by observations made by this Court in the present order.

7. With the aforesaid observations, the writ petition stands disposed of.

8. Stay petition and all pending applications, if any, also stand disposed of.

(MUKESH RAJPUROHIT),J